

BEFORE THE
UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Mallory Post Office
Mallory, New York

Docket No. A2011-100

REPLY COMMENTS OF THE PUBLIC REPRESENTATIVE

December 7, 2011

I. INTRODUCTION AND BACKGROUND

By a letter postmarked September 28, 2011, the Commission received a Petition to review the Postal Service's determination to close the Mallory Post Office, in New York.¹ On September 30, 2011, the Postal Regulatory Commission (Commission) docketed the Petition, instituted the current review proceedings, appointed a Public Representative, and established a procedural schedule.² On October 13, 2011, the Postal Service filed an electronic version of the Administrative Record (AR) concerning its "Final Determination to Close the Mallory, NY Post Office and Establish Service by Rural Route Service" dated August 23, 2011, Postal Service Docket Number 1371555-

¹ Letter filed by Mark Burghart of Mallory, New York (Petitioner).

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, September 30, 2011 (Order No. 893).

13103.³ The rural route service will be under the administrative responsibility of the Central Square Post Office, located approximately 5 miles away. AR Item No. 33 at 2.

II. STATEMENT OF FACTS

The Mallory Post Office, Mallory, New York 13103-9998, is located in Oswego County. It is an EAS Level-11 post office. Administrative Record (AR) Item No. 1. Mallory Post Office customers rent 31 Post Office Boxes. AR, Item No. 8.⁴ There are no postage meter customers or permit mailers. AR Item No. 15. There is no city or rural route carrier service. However, there are 134 patrons served by an intermediate rural route. AR Item No. 13. Collection boxes would be removed if not on the carriers' line of travel. *Id.*, Item No. 15.

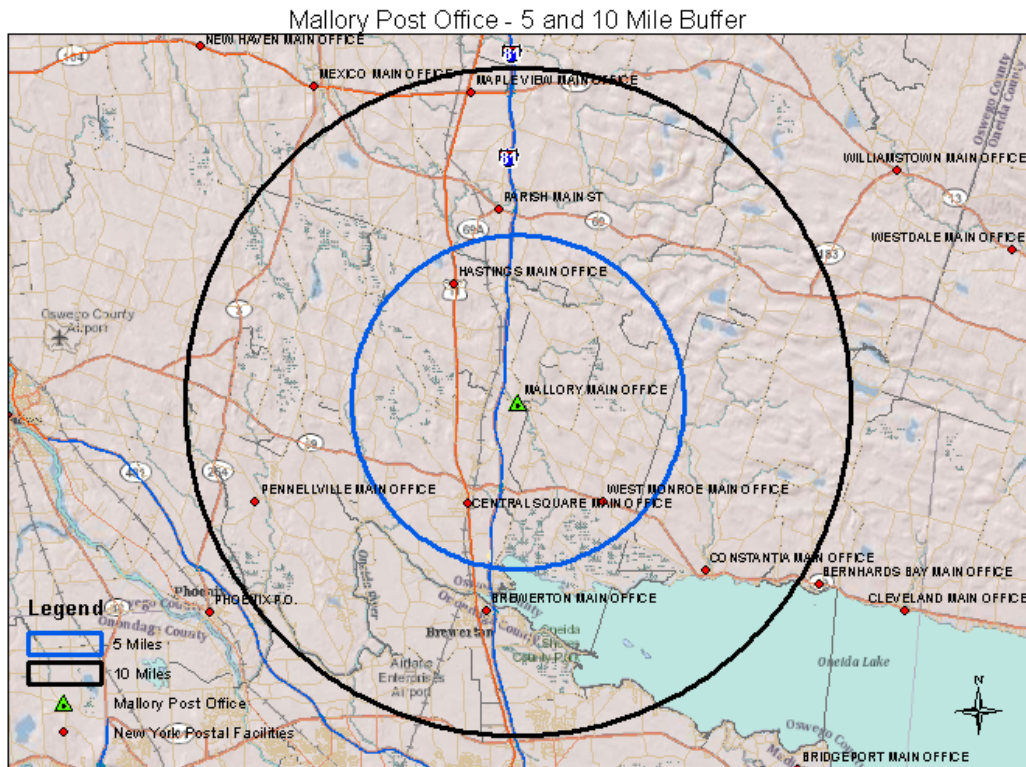
Mallory is an unincorporated community administered politically by the Town of Hastings. Police protection is provided by the New York State Police. Mallory is populated by 388 people with a median age of approximately 36 years – the United States median age is 37.⁵ The number of residents per square mile is 190 – the United States average is 87 people. *Id.* “The community is comprised of retirees, self-employed individuals and those who commute to work at nearby communities.” *Id.*, Item No. 47 at 4. There is one business – Mallor Lumber. *Id.* The projected annual business and household growth rate is 0.13 percent. *Id.*, Item No. 16.

Delivery and retail service will be provided by the Central Square Post Office, with either a rural carrier or a contract delivery carrier. As shown in the following map, the Central Square Post Office, an EAS-18 level office, is located approximately five miles away from the Mallory Post Office. *Id.*, Item 47 at 2.

³ United States Postal Service Notice of Filing, October 13, 2011, AR. The filing includes 49 items with circular date stamps recording its Final Determination to Close the Mallory, NY Post Office. The date posted was August 23, 2011 and the date removed was September 24, 2011. AR, Item No. 49.

⁴ The AR Item No.1 indicates that there are only 28 Post Office Box customers.

⁵ <http://www.bestplaces.net/people/zip-code/new%20york/mallory/13103>. See also, Final Determination (FD) Item No. 47



The request for a change in postal services was dated March 18, 2011. *Id.*, Item No. 1. The request was based on a management initiated study to determine if regular and effective postal services could be provided by alternate means. *Id.* Mallory's postmaster was reassigned on March 31, 2009. *Id.* Since the postmaster's reassignment, the vacancy has been filled by an Officer In Charge (OIC). *Id.*, Item No. 18. There is no mention of whether or not the OIC is a career postal employee. No other employee will be adversely affected. *Id.*, Item No. 47 at 6.

Window service at the Mallory Post Office is provided Monday through Friday from 7:00 a.m. to 10:45 a.m. and on Saturdays from 9:00 a.m. to 11:45 a.m. Lobby hours are Monday through Friday from 7:00 a.m. to 11:00, and on Saturdays from 9:00

a.m. to 12:00 p.m. *Id.*, Item No. 15. Retail window revenue averaged 12 transactions for a two week period in January 2011, accounting for an average of approximately 14 minutes of daily retail work. *Id.*, Item No. 10. Revenue was \$12,933 (34 revenue units) in FY 2008; grew 38 percent to \$17,950 (47 revenue units) in FY 2009; and grew 0.01 percent to \$18,103 (47 revenue units) in FY 2010. *Id.*, Item No. 47 at 2. The lease, of \$3,800 per annum, will expire on December 31, 2011 and has no termination clause. *Id.*, Item No. 15.

After closing the Mallory New York Post Office, the Central Square Post Office will continue to provide window service. Currently, the Central Square Post Office hours are Monday through Friday 8:30 a.m. to 10:15 a.m. and 11:15 a.m. to 5:00 p.m. Saturday hours are 8:30 a.m. to 12:00 p.m. *Id.*, Item No. 47 at 2. The Central Square Post Office lobby is accessible 6:00 a.m. to 5:30 p.m. Monday through Friday; and Saturday lobby hours are 6:00 a.m. to 12:00 p.m.⁶ The Post Office Box fees are the same for the Mallory and Central Square Post Offices, thus, rental fees will remain the same.⁷ The Mallory Post Office has 31 post office box or general delivery customers and 134 delivery customers. *Id.*, Item No. 42 at 2. There are 234 Post Office Boxes available at the Central Square Post Office. *Id.*

On May 4, 2011, postal representatives were available at the Mallory Post Office during the hours of 7:30 a.m. to 9:30 a.m. to answer questions and provide information to customers. *Id.*, Item No. 21 at 4. Five customers attended. *Id.*, Item No. 41 at 2. On the “Postal Service Customer Questionnaire,” one patron commented that most patrons could not attend the meeting since it was held during normal business hours. The patron further commented that the timing of the meeting prevented customers from giving their feedback to the Postal Service regarding the closing. *Id.*, Item No. 22 at 23.

On April 25, 2011, 28 questionnaires with a cover letter were distributed to the Mallory Post Office delivery customers and available over the counter to retail

⁶ <http://www.villageofcentralsquare-ny.us/live/resident-resources/post-office.php>

⁷ <https://poboxes.usps.com/poboxonline/search/landingPageValidation.do>

customers. The letter indicated the plan to close the Mallory Post Office and provide rural route service with roadside mailboxes installed by the customer. In addition, the letter explained the rationale for the closing. *Id.*, Item No. 21 at 1 and 5. The community name will continue to be used in the new address. *Id.*, Item No. 47 at 4. Twelve questionnaires were returned; 2 were favorable, 3 unfavorable and 7 expressed no opinion. *Id.*, at 2.

The typed date on the Proposal to Close the Mallory Post Office, with an invitation for comment, indicates that it was posted in the Mallory Post Office on May 21, 2011 and on May 23, 2011 in the Central Square Post Office. Both notices were removed July 25, 2011 and thus met the required 60 days. *Id.*, Item Nos. 36 at 1 and 3, and Item No. 41.

The Final Decision to Close the Mallory Post Office was posted in both the Mallory and Central Square Post Offices on August 23, 2011, and removed September 24, 2011. *Id.*, Item No. 49 at 1 and 2. The decision was based on: (1) the reassignment of the postmaster on March 31, 2009; and (2) a management initiated study to determine if regular and effective service could be provided through alternative changes. *Id.*, Item No. 47 at 2. The Postal Service identified that: (1) there was minimal workload; (2) low office revenue; (3) delivery and retail options could be provided by rural route delivery service from the Central Square Post Office; and (4) the estimated annual savings to the Postal Service was approximately \$45,037. *Id.*, Item No. 47 at 2 and 5. In the Final Determination to close the Mallory Post Office, the Postal Service considered and responded to various concerns expressed by postal customers. *Id.*, Item No. 47 at 2 through 4.

Additional advantages of the Final Determination to Close for customers opting for carrier service are that patrons do not need to travel to the post office to pick-up their mail or conduct retail transactions and the community name will be retained in their address. The disadvantages are the loss of a postmaster in the community and the inconvenience of meeting a carrier for retail service. AR Item No. 47 at 6.

III. POSITIONS OF THE PARTIES

A. The Petitioner

Petitioner filed Form 61 in addition to his Petition. The Petitioner indicates that he operates a mail order business, and closing the Mallory Post Office will mean a “big inconvenience” for him because his office is only four buildings away from the Mallory Post Office. Petitioner requests that the Commission consider keeping the Mallory Post Office open.⁸ Petitioner is also concerned about having to change the address on his products if the Mallory Post Office is closed. *Id.* In its comments, the Postal Service states that it explained to the Petitioner that a customer who retains his or her Post Office Box or who currently has street delivery will not have to change his or her address.

Without further explanation from the Petitioner, together with the Postal Service’s review of the effects of the closing on the community and its plan to provide rural carrier delivery service, the Public Representative cannot demonstrate that the Final Decision is unlawful. Inconvenience to customers, alone, does not render a decision to close a post office contrary to law.

⁸ Docket No. A2011-100, PRC Form 61, November 7, 2011.

B. The Postal Service

The Postal Service argues that it: (1) has followed the proper procedures; (2) is consistent with the mandate of 39 U.S.C. § 404(d)(2)(A), considered the effect of the closing on the Mallory community, the economic savings of the closing, the effect on postal employees and other factors; and (3) determined the advantages outweigh the disadvantages and effective and regular service will continue to be provided to Mallory customers.

IV. STANDARD OF REVIEW AND APPLICABLE LAW

A. Standard of Review

The PAEA delegates to the Commission the authority to review post office closings pursuant to 39 U.S.C. §404(d)(5). That section requires the Commission to review the Postal Service's determination to close a post office on the basis of the record that was before the Postal Service. The Commission shall set aside any determination, findings, and conclusions found to be – (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (B) without observance of procedure required by law; or (C) unsupported by substantial evidence on the record.

The Commission may affirm the Postal Service's determination or order the entire matter returned to the Postal Service for further consideration, but it may not modify the Postal Service's determination.⁹

B. The Law Governing Postal Service Determinations

⁹ Section 404(d)(5) also authorizes the Commission to suspend the effectiveness of a Postal Service determination pending disposition of the appeal. The petitioner in this proceeding did not request suspension of the closure of the Mallory Post Office.

Prior to making a determination to close or consolidate a post office, 39 U.S.C. §404(d)(1) requires that the Postal Service shall provide adequate notice of its intention at least 60 days prior to the proposed date of such action to persons served by such post office to insure they have an opportunity to present their views.

Prior to making a final determination to close or consolidate a post office, the Postal Service is required by 39 U.S.C. §404(d)(2) to consider: (i) the effect of the closing on the community served; (ii) the effect on the employees of the Postal Service employed at the office; (iii) whether the closing is consistent with the Postal Service's provision of "a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;" (iv) the economic savings to the Postal Service due to the closing; and (v) such other factors as the Postal Service determines are necessary. See 39 U.S.C. §404(d)(2)(A). The Postal Service is also precluded from considering compliance with provisions of the Occupational Safety and Health Act of 1970, 29 U.S.C. 651, *et seq.* See 39 U.S.C. §404(d)(2)(B).

In addition, the Postal Service's final determination must be in writing, address the aforementioned considerations, and be made available to persons served by the post office. 39 U.S.C. §404(d)(3). The Postal Service is prohibited from taking any action to close a post office until 60 days after its final determination is made available to persons served by such post office. 39 U.S.C. §404(d)(4).

The Postal Service also has regulations prescribing its requirements for closing post offices. 39 CFR 241.3.

V. ADEQUACY OF THE POSTAL SERVICE'S FINAL DETERMINATION

After careful review of the Postal Service's Final Determination, the materials in the Administrative Record and the contention presented in the Petition, the Public Representative believes the Postal Service appears to have adequately considered, and has met, the requirements of section 404(d)(2)(A) with regard to the: "postmaster

vacancy, minimal workload, low office revenue, existence of alternative delivery and retail options, minimal impact upon the community and employees, and the expected financial savings, the Postal Service issued the Final Determination.”¹⁰

VI. PROCEDURAL QUESTIONS

The Public Representative’s review indicates that the Postal Service complied with its own rules regarding the procedural requirements related to notices and postings. However, one Mallory Post Office patron requested that the Postal Service consider placing the postal boxes at the Mallory Lumber location which the Postal Service apparently did in a similar situation. AR, Item No. 34 at 1. In the Postal Service’s response to the patron, the Post Office Operations Manager indicated that she would review the suggestion for feasibility. *Id.*, Item No. 38 at 3. However, nothing in the record indicates that any further consideration was given to the suggestion. The Public Representative recommends that the Postal Service follow up on suggestions made by patrons and respond appropriately.

The Postal Service held a meeting, at the Mallory Post Office, to answer questions and provide customer information from 7:30 a.m. to 9:30 a.m. on May 4, 2011, at the Mallory Post Office. One customer commented that the meeting was held during normal business hours, such that other customers could not attend. The Postal Service should make every effort to hold its meetings, during hours more convenient to customers.

¹⁰ United States Postal Service Comments Regarding Appeal, November 22, 2011 at 4.

VII. CONCLUSION

For the reasons set forth above, the decision of the Postal Service to close the Mallory, New York Post Office should be affirmed.

Respectfully Submitted,

/s/
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